

UNITED STATES DISTRICT COURT

for the

District of South Dakota

In the Matter of the Search of)

(Briefly describe the property to be searched
or identify the person by name and address)INFORMATION ASSOCIATED WITH FACEBOOK USER ID
ROBERT QUIVER.3 AND OTHER LINKED ACCOUNTS
THAT ARE STORED AT PREMISES CONTROLLED BY
FACEBOOK INC.)

Case No. 5:19-mj-120

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search
of the following person or property located in the _____ District of _____ South Dakota
(identify the person or describe the property to be searched and give its location):

INFORMATION ASSOCIATED WITH FACEBOOK USER ID ROBERT QUIVER.3 AND OTHER LINKED ACCOUNTS THAT
ARE STORED AT PREMISES CONTROLLED BY FACEBOOK INC.

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property
described above, and that such search will reveal (identify the person or describe the property to be seized):
evidence of a crime (incorporate Attachments A & B)

YOU ARE COMMANDED to execute this warrant on or before October 9, 2019 (not to exceed 14 days)
☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the
person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the
property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory
as required by law and promptly return this warrant and inventory to Daneta Wollmann
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C.
§ 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose
property, will be searched or seized (check the appropriate box)

☐ for _____ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of _____

Date and time issued: 9-25-19 8:35pmCity and state: Rapid City, SD


Judge's signature

Daneta Wollmann, U.S. Magistrate Judge

Printed name and title
CC: Agent & AUSA Peppen
CLR

UNITED STATES DISTRICT COURT

for the
District of South Dakota

In the Matter of the Search of

(Briefly describe the property to be searched
or identify the person by name and address)

INFORMATION ASSOCIATED WITH FACEBOOK USER ID
ROBERT QUIVER.3 AND OTHER LINKED ACCOUNTS
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FACEBOOK INC.

Case No. 5:19-MJ-120

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachments A & B

located in the _____ District of South Dakota, there is now concealed (identify the person or describe the property to be seized):

See Attachments A & B

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;
☒ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description

The application is based on these facts:

☒ Continued on the attached sheet.

☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.



Applicant's signature

FBI SA Erik K. Doell

Printed name and title

Sworn to before me and signed in my presence.

Date: 9-25-19

City and state: Rapid City, SD



Judge's signature

Daneta Wollmann, U.S. Magistrate Judge

Printed name and title

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
FACEBOOK USER ID
ROBERT.QUIVER.3 AND OTHER
LINKED ACCOUNTS THAT ARE
STORED AT PREMISES
CONTROLLED BY FACEBOOK INC.

Case No. 5:19-mj-120

Filed Under Seal

REDACTED

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

State of South Dakota)
) ss
County of Pennington)

I, Erik K. Doell being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) currently assigned to the Minneapolis Division, Rapid City Resident Agency and have been so employed since February 17, 2009. I am currently authorized to investigate matters involving 18 U.S.C. § 1153 (Offenses committed in Indian country); 18 U.S.C. § 2241 (Aggravated Sexual abuse); 18 U.S.C. § 2422 (Coercion and enticement); and 18 U.S.C. § 2251 (Sexual Exploitation of Children).

2. I make this affidavit in support of an application for a search warrant for information associated with a Facebook user ID that is stored at premises owned, maintained, controlled, or operated by Facebook Inc.

("Facebook"), a social networking company headquartered in Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. §§ 2703(a), 2703(b)(1)(A) and 2703(c)(1)(A) to require Facebook to disclose to the government records and other information in its possession, pertaining to the subscriber or customer associated with the user ID.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents and witnesses. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on my training and experience and the facts as set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 2422(b), Enticement, as well as 18 U.S.C. §§ 1153 and 2243, Sexual Abuse of a Minor, have been committed by Robert John Quiver, the user of Facebook user ID ROBERT.QUIVER.3, the Target Account. There is also probable cause to search the information described in Attachment A for evidence of these crimes, as described in Attachment B.

PROBABLE CAUSE

5. On May 1, 2019, the FBI was contacted regarding allegations that T.M. had been solicited by Robert John Quiver (Quiver) for nude photographs online. T.M. is an Indian female, date of birth of [REDACTED] residing within

the exterior boundaries of the Pine Ridge Reservation. Quiver is an Indian male, date of birth [REDACTED]. Quiver is an enrolled member of the Oglala Sioux Tribe.

6. During a forensic interview conducted on May 14, 2019, at the Children's Home Child Advocacy Center, T.M. disclosed that she and Quiver had non-forcible penile-vaginal intercourse on one occasion in Wanblee, SD, during her eighth grade year.

7. T.M. knew Quiver from a familial relationship. T.M. considers Quiver a cousin. T.M. stated Quiver was known to "mess with little girls." When T.M. was in the eighth grade, Quiver began to "flirt around" with her. Quiver added T.M. as a friend on Facebook and T.M. accepted the friend request. T.M. and Quiver initially had conversations over Facebook Messenger. The conversations were innocent at first; mostly discussing what T.M. was doing in school, etc.

8. Quiver subsequently began asking T.M. for photos. Eventually, Quiver asked T.M. to send him nude photos. T.M.'s family members then interacted with Quiver over Facebook and "cussed him out" and blocked Quiver. Quiver then re-added T.M. as a Facebook friend. It is unknown whether or not T.M. sent nude photographs, however, T.M. did tell the forensic interviewer that she sent regular photographs.

9. At some point during their conversations, Quiver asked T.M. if they were going to "fuck." T.M. stated that Quiver kept "bugging" her about having

sexual intercourse. It is unclear whether all the communications were over Facebook Messenger or cellular telephone.

10. Below are excerpts from the forensic interview: [the excerpts have been edited for ease of reading, however the content of what was said has not been edited]:

TM: "Yeah; when he asks, it's just like...like, in my head, like, 'If you don't stop bugging me, then I'll, like, say something, just to make 'em stop bugging me.'" "So, when he just kept on asking me in school, and I'm like, No, I can't. And then he'll like, bug me and bug me. Then, in my head. Then – 'cause, then after that, he stopped 'texting' me, so then I was like – I said, I was like Thank God, he stopped texting! And, like, then after that he started asking me again. He was all – he's like – like 'Can I fuck then? And I was like 'No.' And he kept on bugging me and bugging and bugging me. And as we were sitting there, then I got tired of it. I said, 'Fuck.' I said, 'All right then.' I was like, 'Come down then.' And then he said, 'All right then.' Then he said, 'Call me.' So then I was like, 'cause, like, I never called a boy before. So I was like – like, 'You call me.' And he's like, 'When?' And I was 'gonna' say, 'Psyche, just kidding.' And then he called, so we were talking. And then he was...and then I was like, and then he's all like – he's like, 'So can I fuck then?' I was

like, 'I already said yeah, because you fuckin' kept on buggin' me!' He's like, 'I know, but I just wanted to *make sure*.'"

11. T.M. described to the forensic interviewer how she had non-forcible penile vaginal sexual intercourse with Quiver on one occasion, in her bedroom, in Wanblee, South Dakota, at a time when she was 14 years of age.

12. On May 14, 2019, FBI SA Chris Corwin performed a consent search of the phone T.M. used to communicate with Quiver.

13. Your affiant received the case file on or about September 16, 2019. Thereafter, your affiant reviewed the information from the consent search of T.M.'s phone and found that on April 29, 2019, T.M. and an unknown party, phone number 605-488-9872, discussed the sexual act.

TM: Me n Robert did sum thing n my grams found out plus CPS r gona come n talk 2 me. What me n him did waz pry wrong buh hes tellin my family lies dat im dhe [the] 1 texting him.

Unk: Crazy What you guy do

TM: we snagged²

14. On August 20, 2019, the FBI received the full forensic interview of T.M. that was conducted on May 14, 2019.

15. On August 21, 2019, a preservation requested was submitted to Facebook to preserve Target Account.

² Your affiant is aware that "snagged" is a term commonly referred to on the reservation for engaging in sexual intercourse.

16. On August 21, 2019, T.M.'s mother, Mary Moran was interviewed by FBI SA Chris Corwin and permission was given to assume the identity of T.M.'s Facebook account. SA Corwin assumed the Facebook account of T.M. and attempted contact with Target Account. Attempts were unsuccessful.

17. On September 24, 2019, your affiant observed Quiver's Facebook account. Quiver posted a shared meme on August 21, 2019, regarding love and relationships.

18. Your affiant believes there is probable cause to search the Target Account for content associated with Enticement, in violation of 18 U.S.C. § 2422(b), as well as 18 U.S.C. §§ 1153 and 2243, Sexual Abuse of a Minor, based on the disclosure of information during T.M.'s forensic interview.

INFORMATION ON FACEBOOK

19. Facebook owns and operates a free-access social networking website of the same name that can be accessed at <http://www.facebook.com>. Facebook allows its users to establish accounts with Facebook, and users can then use their accounts to share written news, photographs, videos, and other information with other Facebook users, and sometimes with the general public.

20. Facebook asks users to provide basic contact and personal identifying information to Facebook, either during the registration process or thereafter. This information may include the user's full name, birth date, gender, contact e-mail addresses, Facebook passwords, physical address (including city, state, and zip code), telephone numbers, screen names,

websites, and other personal identifiers. Facebook also assigns a user identification number to each account.

21. Facebook users may join one or more groups or networks to connect and interact with other users who are members of the same group or network. Facebook assigns a group identification number to each group. A Facebook user can also connect directly with individual Facebook users by sending each user a "Friend Request." If the recipient of a "Friend Request" accepts the request, then the two users will become "Friends" for purposes of Facebook and can exchange communications or view information about each other. Each Facebook user's account includes a list of that user's "Friends" and a "News Feed," which highlights information about the user's "Friends," such as profile changes, upcoming events, and birthdays.

22. Facebook users can select different levels of privacy for the communications and information associated with their Facebook accounts. By adjusting these privacy settings, a Facebook user can make information available only to himself or herself, to particular Facebook users, or to anyone with access to the Internet, including people who are not Facebook users. A Facebook user can also create "lists" of Facebook friends to facilitate the application of these privacy settings. Facebook accounts also include other account settings that users can adjust to control, for example, the types of notifications they receive from Facebook.

23. Facebook users can create profiles that include photographs, lists of personal interests, and other information. Facebook users can also post

“status” updates about their whereabouts and actions, as well as links to videos, photographs, articles, and other items available elsewhere on the Internet. Facebook users can also post information about upcoming “events,” such as social occasions, by listing the event’s time, location, host, and guest list. In addition, Facebook users can “check in” to particular locations or add their geographic locations to their Facebook posts, thereby revealing their geographic locations at particular dates and times. A particular user’s profile page also includes a “Wall,” which is a space where the user and his or her “Friends” can post messages, attachments, and links that will typically be visible to anyone who can view the user’s profile.

24. Facebook allows users to upload photos and videos, which may include any metadata such as location that the user transmitted when s/he uploaded the photo or video. It also provides users the ability to “tag” (i.e., label) other Facebook users in a photo or video. When a user is tagged in a photo or video, he or she receives a notification of the tag and a link to see the photo or video. For Facebook’s purposes, the photos and videos associated with a user’s account will include all photos and videos uploaded by that user that have not been deleted, as well as all photos and videos uploaded by any user that have that user tagged in them.

25. Facebook users can exchange private messages on Facebook with other users. Those messages are stored by Facebook unless deleted by the user. Facebook users can also post comments on the Facebook profiles of other users or on their own profiles; such comments are typically associated

with a specific posting or item on the profile. In addition, Facebook has a chat feature that allows users to send and receive instant messages through Facebook Messenger. These chat communications are stored in the chat history for the account. Facebook also has Video and Voice Calling features, and although Facebook does not record the calls themselves, it does keep records of the date of each call.

26. If a Facebook user does not want to interact with another user on Facebook, the first user can “block” the second user from seeing his or her account.

27. Facebook has a “like” feature that allows users to give positive feedback or connect to particular pages. Facebook users can “like” Facebook posts or updates, as well as webpages or content on third-party (i.e., non-Facebook) websites. Facebook users can also become “fans” of particular Facebook pages.

28. Facebook has a search function that enables its users to search Facebook for keywords, usernames, or pages, among other things.

29. Each Facebook account has an activity log, which is a list of the user’s posts and other Facebook activities from the inception of the account to the present. The activity log includes stories and photos that the user has been tagged in, as well as connections made through the account, such as “liking” a Facebook page or adding someone as a friend. The activity log is visible to the user but cannot be viewed by people who visit the user’s Facebook page.

30. Facebook also has a Marketplace feature, which allows users to post free classified ads. Users can post items for sale, housing, jobs, and other items on the Marketplace.

31. In addition to the applications described above, Facebook also provides its users with access to thousands of other applications (“apps”) on the Facebook platform. When a Facebook user accesses or uses one of these applications, an update about that the user’s access or use of that application may appear on the user’s profile page.

32. Facebook also retains Internet Protocol (“IP”) logs for a given user ID or IP address. These logs may contain information about the actions taken by the user ID or IP address on Facebook, including information about the type of action, the date and time of the action, and the user ID and IP address associated with the action. For example, if a user views a Facebook profile, that user’s IP log would reflect the fact that the user viewed the profile, and would show when and from what IP address the user did so.

33. Social networking providers like Facebook typically retain additional information about their users’ accounts, such as information about the length of service (including start date), the types of service utilized, and the means and source of any payments associated with the service (including any credit card or bank account number). In some cases, Facebook users may communicate directly with Facebook about issues relating to their accounts, such as technical problems, billing inquiries, or complaints from other users. Social networking providers like Facebook typically retain records about such

communications, including records of contacts between the user and the provider's support services, as well as records of any actions taken by the provider or user as a result of the communications.

34. As explained herein, information stored in connection with a Facebook account may provide crucial evidence of the "who, what, why, when, where, and how" of the criminal conduct under investigation, thus enabling the United States to establish and prove each element or alternatively, to exclude the innocent from further suspicion. In my training and experience, a Facebook user's IP log, stored electronic communications, and other data retained by Facebook, can indicate who has used or controlled the Facebook account. This "user attribution" evidence is analogous to the search for "indicia of occupancy" while executing a search warrant at a residence. For example, profile contact information, private messaging logs, status updates, and tagged photos (and the data associated with the foregoing, such as date and time) may be evidence of who used or controlled the Facebook account at a relevant time. Further, Facebook account activity can show how and when the account was accessed or used. For example, as described herein, Facebook logs the Internet Protocol (IP) addresses from which users access their accounts along with the time and date. By determining the physical location associated with the logged IP addresses, investigators can understand the chronological and geographic context of the account access and use relating to the crime under investigation. Such information allows investigators to understand the geographic and chronological context of Facebook access, use,

and events relating to the crime under investigation. Additionally, Facebook builds geo-location into some of its services. Geo-location allows, for example, users to "tag" their location in posts and Facebook "friends" to locate each other. This geographic and timeline information may tend to either inculcate or exculpate the Facebook account owner. Last, Facebook account activity may provide relevant insight into the Facebook account owner's state of mind as it relates to the offense under investigation. For example, information on the Facebook account may indicate the owner's motive and intent to commit a crime (e.g., information indicating a plan to commit a crime), or consciousness of guilt (e.g., deleting account information in an effort to conceal evidence from law enforcement).

35. Therefore, the computers of Facebook are likely to contain all the material described above, including stored electronic communications and information concerning subscribers and their use of Facebook, such as account access information, transaction information, and other account information.

INFORMATION TO BE SEARCHED AND THINGS TO BE SEIZED

36. I anticipate executing this warrant under the Electronic Communications Privacy Act, in particular 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A), by using the warrant to require Facebook to disclose to the government copies of the records and other information (including the content of communications) particularly described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-

authorized persons will review that information to locate the items described in Section II of Attachment B.

CONCLUSION

37. Based on the forgoing, I request that the Court issue the proposed search warrant.

38. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant. The government will execute this warrant by serving it on Facebook. Because the warrant will be served on Facebook, who will then compile the requested records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

39. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. §§ 2703(a), (b)(1)(A) & (c)(1)(A). Specifically, the Court is “a district court of the United States . . . that – has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

40. Pursuant to 18 U.S.C. § 2703(g), the presence of a law enforcement officer is not required for the service or execution of this warrant.

REQUEST FOR SEALING

41. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the

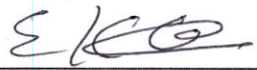
investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

REQUEST/JUSTIFICATION FOR ORDER OF NONDISCLOSURE


42. The United States respectfully applies for an order of nondisclosure to Facebook under 18 U.S.C. § 2705(b) regarding the account associated with Facebook user ROBERT.QUIVER.3 and other linked accounts that are stored at the premises controlled by Facebook Inc. The United States is seeking this search warrant for user information, including all names, addresses, IP addresses, including historical, telephone numbers, other email addresses, information on length and types of services and any means of payment related to these accounts under the authority given by 18 U.S.C. §§ 2703(a), 2703(b)(1)(A), and 2703(c)(1)(A). Based on § 2703(c)(3), the United States is not required to provide notice to the subscriber. Under § 2705(b), the United States may apply to the court for an order commanding Facebook not to notify the subscriber of the existence of the search warrant. The court may decide what length of time shall apply to the order of nondisclosure if the court determines the notification to the subscriber could result in one of the five factors listed in the statute, which includes destruction of or tampering with evidence. 18 U.S.C. § 2705(b)(3). The basis for the request is that such disclosure could cause any person with access to the accounts, or any related account or account information, to tamper with or modify the content or account information and thereby destroy or tamper with evidence and otherwise seriously jeopardize the investigation. Especially due to the ease of

access to Facebook, its content can be modified by persons with internet access and sufficient account information. As such, the United States respectfully requests this Court enter an order commanding Facebook not to notify the user of the existence of this warrant.

Dated: 9/25/19


Erik K. Doell, Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN to in my presence
this 25th day of September, 2019


DANETA WOLLMANN
U.S. MAGISTRATE JUDGE